

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUSTIN WALKER,

Plaintiff,

v.

SHAUNA FRANKLIN.

Defendant.

No. 2:25-cv-1701-DJC-CKD (PS)

ORDER and FINDINGS AND  
RECOMMENDATIONS

Plaintiff Justin Walker initiated this action on June 17, 2025, with a pro se<sup>1</sup> complaint, a motion to proceed in forma pauperis (“IFP”), and a motion for a temporary restraining order. (ECF Nos. 1, 2, 3.) Plaintiff’s application to proceed in forma pauperis makes the showing required by 28 U.S.C. § 1915, and the motion is granted. For the reasons set forth below, the motion for a temporary restraining order should be denied and the complaint should be dismissed without leave to amend because plaintiff seeks relief from a defendant who is immune from a suit for damages and the court cannot grant the injunctive relief plaintiff seeks.

**I. Allegations in the Complaint**

The very brief complaint references Sacramento County Superior Court Case No. 23FE001483 and states plaintiff is the owner of the property at 4308 Greenholme Drive,

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<sup>1</sup> Because plaintiff proceeds without counsel, this matter is referred to the undersigned magistrate judge pursuant to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 Apartment 44, in Sacramento, California. (ECF No. 1 at 1.) Defendant, Shauna Franklin, is  
2 alleged to be a federal employee or agent who seized plaintiff's property on January 1, 2024,  
3 without a warrant, consent, or just compensation. (Id. at 2.) Plaintiff seeks damages and injunctive  
4 relief for alleged violations of his Fourth Amendment right to be free from unreasonable searches  
5 and seizures and Fifth Amendment right to be free from the taking of private property without  
6 just compensation. (Id.)

7 In the motion for a temporary restraining order, plaintiff further alleges defendant  
8 "brought the case" against him. (ECF No. 3 at 1.) Plaintiff requests relief in the form of  
9 "suppression of evidence and dismissal of case by Shauna Franklin." (Id.)

## 10 II. Screening Requirement

11 Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis  
12 proceeding, and must order dismissal of the case if it is "frivolous or malicious," "fails to state a  
13 claim on which relief may be granted," or "seeks monetary relief against a defendant who is  
14 immune from such relief." 28 U.S.C. § 1915(e)(2)(B); Lopez v. Smith, 203 F.3d 1122, 1126-27  
15 (2000) (en banc). In reviewing a complaint under this standard, the court accepts as true the  
16 factual allegations contained in the complaint, unless they are clearly baseless or fanciful, and  
17 construes the allegations in the light most favorable to the plaintiff. See Von Saher v. Norton  
18 Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S.  
19 1037 (2011). In addition, the court liberally construes pro se pleadings. See Haines v. Kerner, 404  
20 U.S. 519, 520 (1972). A pro se litigant is entitled to notice of the deficiencies in the complaint  
21 and an opportunity to amend unless the complaint's deficiencies could not be cured by  
22 amendment. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987) (superseded on other  
23 grounds by statute as stated in Lopez, 203 F.3d 1122).

## 24 III. Discussion

### 25 A. The motion for a temporary restraining order should be denied.

26 The local rules of this court impose specific requirements on those who request a  
27 temporary restraining order. See Local Rule 231. Plaintiff has not met these requirements. See  
28 also Fed. R. Civ. P. 65(b)(1) (setting forth the circumstances under which a court may issue a

1 temporary restraining order “without written or oral notice to the adverse party”).

2 In addition, the court cannot grant plaintiff the requested relief in the form of suppression  
3 of evidence and dismissal of his criminal case. Federal courts must abstain when a federal  
4 plaintiff seeks federal intervention, before a state criminal trial, to resolve isolated and discrete  
5 trial issues such as admissibility of evidence. See Dubinka v. Judges of the Superior Court of  
6 Calif., 23 F.3d 218, 223 (9th Cir.1994) (citing Younger v. Harris, 401 U.S. 37 (1971) and Perez v.  
7 Ledesma, 401 U.S. 82, 84-85 (1971)). Separately, under the Anti-Injunction Act, 28 U.S.C. §  
8 2283, a federal court is “barred from enjoining or staying proceedings in state court.”<sup>2</sup> See  
9 Scherbenske v. Wachovia Mortg., FSB, 626 F. Supp. 2d 1052, 1058 (E.D. Cal. 2009). The Anti-  
10 Injunction Act “is interpreted broadly and includes injunctions directed at the parties rather than  
11 the state court itself.” Id. (citing Atlantic C.L.R. Co. v. Brotherhood of Locomotive Engineers,  
12 398 U.S. 281, 287 (1970)).

13 Moreover, plaintiff fails to allege immediate threatened injury which is a prerequisite to  
14 preliminary injunctive relief. See Los Angeles Mem’l Coliseum Comm’n v. Nat’l Football  
15 League, 634 F.2d 1197, 1201 (9th Cir. 1980). Vague and conclusory allegations of imminent  
16 harm do not suffice. See generally FDIC v. Garner, 125 F.3d 1272, 1279 (9th Cir. 1997) (the  
17 threat of injury “must be imminent, not remote or speculative”), cert. denied, 523 U.S. 1020  
18 (1998).

19 Finally, as set forth below, since plaintiff has not stated a cognizable claim, plaintiff  
20 cannot show a likelihood of success on the merits as required for preliminary injunctive relief to  
21 issue. See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008) (setting forth the  
22 factors a court considers in deciding whether to issue a temporary restraining order); Stuhlbarg  
23 Int’l. Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001) (stating the  
24 analysis for temporary restraining orders and preliminary injunctions is “substantially identical”).  
25 Likelihood of success on the merits is the most important Winter factor, and it is relevant to the  
26 court’s evaluation of the other factors See Baird v. Bonta, 81 F.4th 1036, 1044 (9th Cir. 2023).

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28 <sup>2</sup> There are three narrowly interpreted statutory exceptions in the Anti-Injunction Act, none of  
which apply here. See 28 U.S.C. § 2283.

Without showing a likelihood of success on the merits, plaintiff cannot establish that a temporary restraining order is appropriate. See Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing Winter, 555 U.S. at 20). Accordingly, the motion for a temporary restraining order should be denied.

**B. The complaint should be dismissed without leave to amend.**

Plaintiff seeks relief for alleged violations of his civil rights pursuant to 42 U.S.C. § 1983. (ECF No. 1 at 1.) A plaintiff may bring an action under 42 U.S.C. § 1983 to redress violations of “rights, privileges, or immunities secured by the Constitution and [federal] laws” by a person or entity, including a municipality, acting under the color of state law. 42 U.S.C. § 1983. A person “acts under color of state law [for purposes of § 1983] only when exercising power ‘possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.’” Polk County v. Dodson, 454 U.S. 312, 317-18 (1981) (quoting United States v. Classic, 313 U.S. 299, 326 (1941)).

Plaintiff’s complaint for monetary damages and injunctive relief must be dismissed. First, under any reasonable construction of plaintiff’s allegations, the sole named defendant cannot be sued for damages under 42 U.S.C. § 1983. Plaintiff’s complaint alleges defendant is located at the Sacramento County Superior Court. (See ECF No. 1 at 1.) This court takes judicial notice of the existence of the referenced Case No. 23FE001483, which is a pending case in the Sacramento County Superior Court in which plaintiff is the criminal defendant.<sup>3</sup> See Fed. R. Evid. 201(b) (“The court may judicially notice a fact that is not subject to reasonable dispute....”); Bennett v. Medtronic, Inc., 285 F.3d 801, 803 n.2 (9th Cir. 2002) (courts may take judicial notice of records and filings of other court proceedings). The court also takes judicial notice that defendant Shauna Franklin is a judge for the Superior Court of the State of California, County of Sacramento.<sup>4</sup> See Minier v. Cent. Intel. Agency, 88 F.3d 796, 798 (9th Cir. 1996) (taking judicial notice that the plaintiff-appellant was a Municipal Court Judge).

<sup>3</sup> This information is publicly available at <https://services.saccourt.ca.gov/PublicCaseAccess/>.

<sup>4</sup> This information is publicly available at <https://courts.ca.gov/courts/superior-courts/judges-roster>.

1 Second, the defendant is immune from suit for monetary damages. Judges are absolutely  
2 immune from liability under 42 U.S.C. § 1983 for damages for their judicial acts, “even when  
3 such acts are in excess of their jurisdiction [or] are alleged to have been done maliciously or  
4 corruptly.” Stump v. Sparkman, 435 U.S. 349, 356 (1978) (quotation omitted).

5 In the alternative, accepting as true plaintiff’s allegation that defendant is a federal agent  
6 or employee, under those circumstances, plaintiff cannot establish the defendant acted under color  
7 of state law, as required for liability under 42 U.S.C. § 1983. See Polk County, 454 U.S. at 317-  
8 18. Setting aside that the complaint seeks relief under 42 U.S.C. § 1983, a plaintiff may bring a  
9 claim for the violation of certain constitutional rights against a federal official under Bivens v. Six  
10 Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). Here, though,  
11 plaintiff does not plausibly allege specific facts that defendant took any action as a federal official  
12 in violation of his constitutional rights, and it clearly appears he cannot do so.

13 Third, as to the complaint’s request for injunctive relief, “judicial immunity is not a bar to  
14 prospective injunctive relief.” Pulliam v. Allen, 466 U.S. 522, 541-42 (1984). However, as set  
15 forth above, this court cannot grant plaintiff the injunctive relief he seeks in relation to his  
16 pending criminal case.

17 Valid reasons for denying leave to amend include undue delay, bad faith, prejudice, and  
18 futility.” California Architectural Bldg. Prod. v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th  
19 Cir. 1988). Leave to amend shall be freely given, but the court does not have to allow futile  
20 amendments. Klamath-Lake Pharm. Ass’n v. Klamath Med. Serv. Bureau, 701 F.2d 1276, 1293  
21 (9th Cir. 1983). In this case, plaintiff seeks damages for acts related to the initiation and  
22 presentation of a criminal prosecution. Defendant is immune from such a suit for damages, and it  
23 clearly appears the court cannot grant plaintiff the requested injunctive relief pertaining to his  
24 criminal case. Granting leave to amend would be futile.

#### 25 IV. Order and Recommendation

26 In accordance with the above, IT IS ORDERED that plaintiff’s motion to proceed in  
27 forma pauperis (ECF No. 2) is GRANTED.


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1 In addition, IT IS RECOMMENDED as follows:

- 2 1. Plaintiff's motion for a temporary restraining order (ECF No. 3) be denied.
- 3 2. This action be dismissed without leave to amend.
- 4 3. The Clerk of the Court be directed to close this case.

5 These findings and recommendations are submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)  
7 days after being served with these findings and recommendations, plaintiff may file written  
8 objections with the court and serve a copy on all parties. Such a document should be captioned  
9 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
10 within the specified time may waive the right to appeal the district court's order. Turner v.  
11 Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir.  
12 1991).

13 Dated: June 20, 2025

14   
15 CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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